

NOT FOR CITATION  
IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

LI LU,

No. C06-07928 HRL

Plaintiff,

**ORDER GRANTING DEFENDANTS'  
MOTION TO DISMISS WITH LEAVE  
TO AMEND**

v.

MICHAEL CHERTOFF, as Secretary of the  
Department of Homeland Security; EMILIO T.  
GONZALEZ, Director of U.S. Citizen and  
Immigration Services; ROBERT S. MUELLER,  
Director of Federal Bureau of Investigation,

**[Re: Docket No. 7]**

Defendants.

Pro se plaintiff Li Lu filed this action, alleging that defendants improperly handled and delayed the processing of her I-485 application to adjust her immigration status to that of a lawful permanent resident.<sup>1</sup> Shortly thereafter, her application was adjudicated; and, pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6), defendants moved for an order dismissing this action as moot. Li Lu does not dispute that claims concerning her I-485 application are now moot. She nevertheless contends that the instant lawsuit is not moot because the I-485 application of her husband, Yi Li, is still pending. Her husband's application is mentioned in the body of the complaint; however, Li Lu acknowledges that she is the only named plaintiff. Moreover, the complaint, as currently pled, seeks relief only as to her application.

<sup>1</sup> Pursuant to 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73, all parties have expressly consented that all proceedings in this matter may be heard and finally adjudicated by the undersigned.

1 At the May 1, 2007 motion hearing, the court discussed the possibility of permitting the  
2 filing of an amended pleading adding Yi Li as a plaintiff. The government requested, and was  
3 given, one week to file an opposition brief on the issue. No opposition was filed, and defense  
4 counsel has confirmed with the court that defendants do not object to the filing of an amended  
5 pleading. Accordingly, IT IS ORDERED THAT:

6 1. Defendants' motion to dismiss is GRANTED WITH LEAVE TO AMEND. Li  
7 Lu's claims as to her I-485 application are DISMISSED AS MOOT. However, she will be  
8 given leave to file an amended pleading which (a) adds her husband, Yi Li, as a plaintiff and (b)  
9 sets forth all allegations upon which he bases his claim(s) for relief. The amended pleading  
10 shall be filed **no later than May 24, 2007**.

11 2. The initial case management conference, currently set for May 15, 2007, is  
12 **continued to July 10, 2007, 1:30 p.m. in Courtroom 2**. The parties shall file a Joint Case  
13 Management Statement **no later than July 3, 2007**.

14 Dated: May 10, 2007

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17 HOWARD R. LLOYD  
18 UNITED STATES MAGISTRATE JUDGE  
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